

AMENDED IN SENATE MAY 1, 2012
AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1225

Introduced by Senator Padilla

February 23, 2012

An act to amend Sections 14031.8, 14070.2, 14070.4, and 14070.6 of, and to repeal and add Article 5.2 (commencing with Section 14072) of Chapter 1 of Part 5 of Division 3 of Title 2 of, the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1225, as amended, Padilla. Intercity rail agreements.

Existing law authorizes the Department of Transportation to contract with Amtrak for intercity-rail passenger *rail* services and provides funding for these services from the Public Transportation Account. Existing law, until December 31, 1996, authorized the department, subject to approval of the Secretary of the Business, Transportation and Housing Agency, to enter into an interagency transfer agreement under which a joint powers board assumes responsibility for administering the state-funded intercity rail service in a particular corridor. Existing law, with respect to a transferred corridor, requires the board to demonstrate the ability to meet performance standards established by the secretary.

This bill would authorize the department, with the approval of the secretary, to enter into an additional interagency transfer agreement with respect to the LOSSAN Corridor, defined to mean the intercity passenger rail corridor between San Diego, Los Angeles, and San Luis Obispo, if the LOSSAN Agency, an existing joint powers agency, is reconstituted through an amended joint powers agreement approved by

the governing boards of its members to enable that agency to enter into an interagency transfer agreement with the secretary relative to the LOSSAN Corridor.

This bill would require an interagency transfer agreement for the LOSSAN Corridor to cover the initial 5-year period after the transfer. The bill would require the secretary, if an agreement is not entered into by ~~December 31, 2013~~ *June 30, 2014*, to report to the Governor and the Legislature by ~~January~~ *July* 31, 2014, as specified.

Existing law provides for the allocation of state funds by the secretary to a joint powers board under an interagency transfer agreement based on the annual business plan for the intercity rail corridor and subsequent appropriation of state funds. Existing law states that the interagency transfer agreement may provide that any additional funds required to operate the passenger rail service during a fiscal year shall be provided by the joint powers board from jurisdictions that receive service.

This bill would delete the provision requiring additional funds to be provided by the board, and would instead provide that those funds may be provided by the board. The bill, with respect to the LOSSAN Corridor, would provide that local resources shall not be available to offset any redirection, elimination, reduction, or reclassification of state resources for operating intercity rail services. *In addition, with regard to that corridor, the bill would require the passenger rail equipment used for intercity passenger rail services to be the same type of equipment used on other state-funded intercity passenger rail services. The bill would prohibit termination of feeder bus services connecting the LOSSAN and San Joaquin Corridors except for specified reasons.*

This bill would authorize the secretary to adopt new performance standards by December 31, 2014, for intercity rail services.

This bill would repeal now-obsolete provisions authorizing the Southern California Regional Rail Authority to be a party to an interagency transfer agreement for intercity rail services in specified counties.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Intercity Passenger Rail Act of 2012.

1 SEC. 2. (a) The Legislature finds and declares all of the
2 following:

3 (1) An intercity-rail passenger *rail* system, linking major urban
4 centers and complemented by feeder bus services that provide
5 access to outlying areas and destinations, is an important element
6 of the state's transportation system, and shall remain a state-funded
7 program.

8 (2) The state has a continuing interest in the provision of
9 cost-effective intercity-rail passenger *rail* services and has a
10 responsibility to coordinate intercity-rail passenger *rail* services
11 statewide.

12 (3) Since 1976, the state has invested over one billion eight
13 hundred million dollars (\$1,800,000,000) in capital improvements
14 and operating support for intercity-rail passenger *rail* service and
15 must ensure the protection of that investment.

16 (b) The Legislature, through the enactment of this act, intends
17 all of the following:

18 (1) The Secretary of Business, Transportation and Housing ~~shall~~
19 *to* be responsible for the overall planning, coordination, and
20 budgeting of the intercity passenger rail service *consistent with*
21 *this act*.

22 (2) If the secretary determines that transferring responsibility
23 for intercity *passenger* rail service in a particular corridor or
24 corridors to a statutorily created joint powers agency would result
25 in administrative or operating cost reductions, the secretary may
26 authorize the Department of Transportation to enter into an
27 interagency transfer agreement to effect a transfer of those
28 administrative functions, *consistent with this act*.

29 (3) Any intercity *passenger* rail corridor for which administrative
30 responsibility has been transferred to a joint powers board through
31 an interagency transfer agreement ~~shall to remain as~~ a component
32 of the statewide system of intercity *passenger* rail corridors.

33 (4) The public interest requires expansion of the state intercity
34 *passenger* rail program in order to keep pace with the needs of an
35 expanding population.

36 (5) ~~For not less than a five-year period, It is desirable that the~~
37 level of state funding for intercity *passenger* rail service in each
38 corridor ~~should~~ be maintained at a level equal to at least the current
39 level of service in the corridor *for not less than a five-year period*,

1 thus providing fiscal stability that will allow appropriate planning
2 and operation of these services.

3 (6) *It is in the public interest to ensure fiscal accountability that*
4 *the intercity passenger rail service operating in the LOSSAN*
5 *Corridor maintain a ratio of fare revenue to operating cost of no*
6 *less than 58 percent.*

7 (7) *It is in the public interest that the LOSSAN Corridor Joint*
8 *Powers Agency retain an individual to manage the contract with*
9 *the state who has previous experience operating or managing*
10 *intercity or commuter passenger rail services.*

11 SEC. 3. Section 14031.8 of the Government Code is amended
12 to read:

13 14031.8. (a) The Secretary of Business, Transportation and
14 Housing shall establish, through an annual budget process, the
15 level of state funding available for the operation of intercity
16 passenger rail service in each corridor.

17 (b) Where applicable, operating funds shall be allocated by the
18 secretary to the joint powers board in accordance with an
19 interagency transfer agreement that includes mutually agreed-upon
20 rail services. Funds for the administration and marketing of
21 services, as appropriate, shall also be transferred by the secretary
22 to the joint powers board, subject to the terms of the interagency
23 transfer agreement.

24 (c) The joint powers board or local or regional entities may, but
25 shall not be required to, augment state-provided resources to
26 expand intercity passenger rail services using local resources, or
27 to address funding shortfalls in achieving agreed-upon performance
28 standards.

29 (d) The department may provide any support services as may
30 be mutually agreed upon by the board and the department.

31 (e) Operating costs shall be controlled by dealing with, at a
32 minimum, the current Amtrak cost allocation formula, which,
33 beginning in federal fiscal year 2013–14, will be subject to Section
34 209 of the federal Passenger Rail Investment and Improvement
35 Act, and the ability to contract out to Amtrak or other rail operators
36 as a part of federal legislation dealing with Amtrak reauthorization.

37 (f) Not later than December 31, 1997, the secretary shall
38 establish a set of uniform performance standards for all corridors
39 and operators to control cost and improve efficiency. To the extent
40 necessary, as determined by the secretary, performance standards

1 may be modified not later than December 31, 2014, relative to
2 including the ~~LOSSAN~~ *San Diego-Los Angeles-San Luis Obispo*
3 (*LOSSAN*) Corridor among the corridors subject to an interagency
4 transfer agreement.

5 (g) Notwithstanding any other provision of this section, with
6 regard to the LOSSAN Corridor, local resources described in
7 subdivision (c) shall not be available for expenditure to offset any
8 redirection, elimination, reduction, or reclassification of state
9 resources for operating intercity *passenger* rail services *as*
10 *identified in subdivision (b)*.

11 SEC. 4. Section 14070.2 of the Government Code is amended
12 to read:

13 14070.2. (a) If authorized by the secretary, the department
14 may, through an interagency transfer agreement, transfer to a joint
15 powers board, and the board may assume, all responsibility for
16 administering state-funded intercity passenger rail service in the
17 corridor. Upon the date specified in the agreement, the board shall
18 succeed to the department's powers and duties relative to that
19 service, except that the department shall retain responsibility for
20 developing budget requests for the service through the state budget
21 process, which shall be developed in consultation with the board,
22 and for coordinating service in the corridor with other intercity
23 passenger rail services in the state.

24 (b) (1) Except as otherwise provided in paragraph (2), the
25 interagency transfer agreement shall be executed on or before
26 December 31, 1996.

27 (2) With respect to the LOSSAN Corridor, if an interagency
28 transfer agreement for that corridor is not entered into on or before
29 ~~December 31, 2013~~ *June 30, 2014*, the secretary shall provide a
30 report to the Governor and the Legislature on or before ~~January~~
31 *July* 31, 2014, explaining why an acceptable agreement has not
32 been developed, with specific recommendations for developing
33 an acceptable agreement.

34 (c) The secretary shall require the board to demonstrate the
35 ability to meet the performance standards established by the
36 secretary pursuant to subdivision (f) of Section 14031.8.

37 SEC. 5. Section 14070.4 of the Government Code is amended
38 to read:

1 14070.4. (a) An interagency transfer agreement between the
2 department and a joint powers board, when approved by the
3 secretary, shall do all of the following:

4 (1) Specify the date and conditions for the transfer of
5 responsibilities and identify the annual level of funding and ensure
6 that the level of funding is consistent with and sufficient for the
7 planned service improvements within the corridor. For purposes
8 of the LOSSAN Corridor, the interagency transfer agreement shall
9 cover the initial five-year period after the transfer, but may be
10 extended thereafter by mutual agreement.

11 (2) Identify, for the initial year and subsequent years, the funds
12 to be transferred to the board including state operating subsidies
13 made available for intercity rail services in the corridor, and funds
14 currently used by the department for administration and marketing
15 of the corridor, with the amounts adjusted annually for inflation
16 and in accordance with the business plan.

17 (3) Specify the level of service to be provided, the respective
18 responsibilities of the board and the department, the methods that
19 the department will use to ~~assure~~ *ensure* the coordination of
20 services with other rail passenger services in the state, and the
21 methods that the department will use for the annual review of the
22 business plan and annual proposals on funding and appropriations.

23 (4) Describe the terms for transferring to the joint exercise of
24 powers agency car and locomotive train sets, and other equipment
25 and property owned by the department and required for the intercity
26 *passenger rail* service in the corridor, including, but not limited
27 to, the number of units to be provided, liability coverage,
28 maintenance and warranty responsibilities, and indemnification
29 issues.

30 (5) Describe auditing responsibilities and process requirements,
31 reimbursement and billing procedures, the responsibility for
32 funding shortfalls, if any, during the course of each fiscal year, an
33 operating contract oversight review process, performance standards
34 and reporting procedures, the level of rail infrastructure
35 maintenance, and other relevant monitoring procedures. The
36 description shall contain an evaluation of the impact of any transfer
37 of equipment on other intercity corridors. The agreement shall
38 endeavor to minimize the impact and maximize the efficient use
39 of the equipment, including continued joint use of equipment that
40 is currently shared by one or more corridors.

(b) Use of the annual state funding allocation, as set forth in the interagency transfer agreement, shall be described in an annual business plan submitted by the board to the secretary for review and recommendation by April 1 of each year. The business plan, when approved by the secretary, shall be deemed accepted by the state. The budget proposal developed by the department for the subsequent year shall be based upon the business plan approved by the secretary. The business plan shall be consistent with the interagency transfer agreement and shall include a report on the recent as well as historical performance of the corridor service, an overall operating plan including proposed service enhancement to increase ridership and provide for increased traveler demands in the corridor for the upcoming year, short-term and long-term capital improvement programs, funding requirements for the upcoming fiscal year, and an action plan with specific performance goals and objectives. The business plan shall document service improvements to provide the planned level of service, inclusion of operating plans to serve peak period work trips, and consideration of other service expansions and enhancements. With respect to the LOSSAN Corridor, the initial business plan shall be consistent with the immediately previous State Rail Plan developed by the department pursuant to Section 14036. The business plan shall clearly delineate how funding and accounting for state-sponsored ~~rail~~ *intercity* passenger *rail* services shall be separate from locally sponsored services in the corridor. Proposals to expand or modify *intercity* passenger *rail* services shall be accompanied by the identification of all associated costs and ridership projections. The business plan shall establish, among other things: fares, operating strategies, capital improvements needed, and marketing and operational strategies designed to meet performance standards established in the interagency transfer agreement.

(c) Based on the annual business plan and the subsequent appropriation by the Legislature, the secretary shall allocate state funds on an annual basis to the board. As provided in the interagency transfer agreement, any additional funds that are needed to operate the passenger rail service during a fiscal year may be provided by the board from jurisdictions that receive service. In addition, the board may use any cost savings or farebox revenues to provide service improvements related to intercity

1 service. In any event, the board shall report the fiscal results of the
2 previous year's operations as part of the annual business plan.

3 (d) The level of service funded by the state shall in no case be
4 less than the current number of intercity round trips operated in a
5 corridor and serving the end points currently served by the intercity
6 rail corridor. For purposes of the LOSSAN Corridor, the level of
7 service funded by the state shall be no less than the level of service
8 funded as of January 1, 2013. Subject to Section 14035.2, the level
9 of service funded by the state shall also include feeder bus service
10 with substantially the same number of route miles as the current
11 feeder system, to be operated in conjunction with the trains.
12 However, the interagency transfer agreement shall not prohibit the
13 joint powers board from reducing the number of feeder bus route
14 miles if the joint powers board determines that a feeder bus route
15 is not cost effective as provided in Section 14035.2.

16 (e) *Feeder bus services that provide connections for intercity*
17 *rail passengers from the LOSSAN Corridor to the state-supported*
18 *San Joaquin passenger rail service shall not be terminated unless*
19 *the bus services fail to meet the cost-effectiveness standard*
20 *described in paragraph (3) of subdivision (a) of Section 14035.2.*

21 ~~(e)~~
22 (f) Nothing in this article shall be construed to preclude
23 expansion of state-approved intercity rail service.

24 ~~(f)~~
25 (g) Notwithstanding any other provision of this section, with
26 regard to the LOSSAN Corridor, local resources described in
27 subdivision (c) shall not be available for expenditure to offset any
28 redirection, elimination, reduction, or reclassification of state
29 resources for operating intercity *passenger* rail services.

30 (h) *The passenger rail equipment regularly used for intercity*
31 *passenger rail service on the LOSSAN Corridor shall be the same*
32 *type of equipment regularly used on other intercity corridors*
33 *funded by the state. The purpose of this requirement is to ensure*
34 *that there is a statewide pool of common intercity passenger rail*
35 *equipment for purposes of interoperability among the state-funded*
36 *corridors and for vehicle fleet management.*

37 SEC. 6. Section 14070.6 of the Government Code is amended
38 to read:

39 14070.6. The department and any entity that assumes
40 administrative responsibility for intercity passenger rail services

1 through an interagency transfer agreement, may, through a
2 competitive solicitation process, contract with the National Railroad
3 Passenger Corporation (Amtrak) or with organizations—~~not~~
4 ~~precluded~~ *authorized* by state or federal law to provide intercity
5 passenger rail services, and may contract with rail corporations
6 and other rail operators for the use of tracks and other facilities
7 and for the provision of intercity passenger *rail* services on terms
8 and conditions as the parties may agree. The department is deemed
9 to be a third-party beneficiary of the contract, and the contract
10 shall not contain any provision or condition that would negatively
11 impact on or conflict with any other contracts the department has
12 regarding intercity passenger rail services. Any entity that succeeds
13 the department as sponsor of state-supported intercity passenger
14 rail services through an interagency transfer agreement, is deemed
15 an agency of the state for all purposes related to intercity passenger
16 rail services, including Section 5311 of Title 49 of the United
17 States Code.

18 SEC. 7. Article 5.2 (commencing with Section 14072) of
19 Chapter 1 of Part 5 of Division 3 of Title 2 of the Government
20 Code is repealed.

21 SEC. 8. Article 5.2 (commencing with Section 14072) is added
22 to Chapter 1 of Part 5 of Division 3 of Title 2 of the Government
23 Code, to read:

24
25 Article 5.2. LOSSAN Corridor
26

27 14072. (a) ~~The Los Angeles-San Diego-San Luis Obispo~~
28 *LOSSAN* Rail Corridor Agency, also known as the LOSSAN
29 Agency, is an existing joint powers authority established to provide
30 an organization capable of implementing the recommendations
31 contained in the State Rail Corridor Study Group's June 1987
32 report entitled "Los Angeles-San Diego State Rail Corridor Study"
33 and undertaking related efforts to improve intercity services and
34 facilities in the corridor and to coordinate subcorridor commuter
35 rail services with intercity services. The LOSSAN Agency is
36 ~~comprised~~ *composed* of voting members, as specified in the joint
37 powers agreement.

38 (b) "LOSSAN Corridor" or "*LOSSAN Rail Corridor*" means
39 the San Diego-Los Angeles-San Luis Obispo intercity passenger
40 rail corridor.

1 14072.2. This article shall be applicable only if the members
2 of the LOSSAN Agency enter into an amended joint powers
3 agreement to expand the authority of the agency to permit the
4 administration of state-funded intercity passenger rail services on
5 the LOSSAN ~~corridor~~ *Corridor*, and the LOSSAN Agency
6 thereafter elects to become a party to an interagency transfer
7 agreement pursuant to Article 5 (commencing with Section 14070).
8 The amended joint powers agreement shall establish the terms and
9 conditions for the joint powers agency and is subject to the
10 approval of the governing board of each member agency of the
11 LOSSAN Agency. Only the LOSSAN Agency operating under
12 the amended joint powers agreement, and not the LOSSAN Agency
13 existing on January 1, 2013, may exercise jurisdiction over intercity
14 rail services on the LOSSAN Corridor under an interagency transfer
15 agreement.